

Serial Number 10/069,103

REMARKS

By this Amendment, claims 24 and 43 have been revised to place this application in condition for allowance. Currently, claims 24-57 are before the Examiner for consideration on their merits.

In review, the prior rejection based on the prior art has been withdrawn and presumably overcome by the last response filed by Applicants. In addition, the various instances of indefiniteness have been removed as well by the last response.

The remaining issues for resolution in this application is the current rejection under 35 U.S.C. § 112, first paragraph based on a lack of written description. Also and although not stated, an underlying issue that remains in this case is whether the Examiner's earlier allegation of indefiniteness based on a conflict between the independent claim directed to an ethanol and alcohol free composition and dependent claims referencing an alcohol.

In response to the outstanding rejection under 35 U.S.C. § 112, first paragraph, claims 24 and 43 have been revised to delete the language of "in the free form". It is submitted that removal of this language removes the rejection.

If the Examiner's intent was to object to the language "free from ethanol or alcohol", it is respectfully submitted that this language is clearly supported by the specification. It is lengthily explained in the introductory part of the specification that the invention does not use ethanol or alcohol, see page 1, lines 8-12 and following. The claims as originally filed state this by defining the composition as "ethanol or alcohol free". Thus, the only true objection to the amendment could be the inclusion of the

Serial Number 10/069,103

language of "in the free form", and since this language is removed, the rejection should be withdrawn.

Turning now to the implicit issue that may remain in this case, the Examiner contended in the previous action that claims 28, 29, and 31 were indefinite since these dependent claims recited an alcohol, but their independent claim indicated that the composition was alcohol free. While this rejection was not remade in the last Office Action, arguments are presented herewith in the event that the Examiner would consider reintroducing the rejection in light of the change to claim 24 and removal of the language "in the free form".

Applicants strenuously contend that the dependent claims that mention alcohol, i.e., claims 27-31, do not raise an issue of indefiniteness under 35 U.S.C. § 112, second paragraph. Indefiniteness is viewed from the perspective of one of skill in the art when reading the specification and claims. Using this test, the only conclusion to draw is that the dependent claims that mention alcohol do not raise a question of indefiniteness since the use of alcohol is in the context of forming an ester and not in the context of the composition itself. Referring to page 2, line 35 to page 3, line 7, the invention uses a co-solvent in combination with a hydrofluoro ether to solubilize perfume concentrates to afford an essentially clear solution for manufacture of perfume compositions of excellent quality. The co-solvent is a polyacid ester. The polyacid ester is obtained from an alcohol part as is compulsory; an ester is the chemical reaction of an acid with an alcohol.

Serial Number 10/069,103

Specifying how the ester is formed in claims 27-31 does not by itself render these claims indefinite. It is well known to those of skill in the art that a polyacid ester is not the same as ethanol or an alcohol. One reading claims 27-31 would readily understand that the mention of an alcohol as part of producing the claimed polyacid ester does not mean that the alcohol remains as part of the composition so as to conflict with the compositional mandate of being "free from ethanol or alcohol" in claim 1. Therefore, specifying that the claimed polyacid ester is esterified with a particular alcohol does not violate 35 U.S.C. § 112, second paragraph, and all claims referencing an alcohol in connection with the esterification of the polyacid ester are fully definite.

Applicants also wish to point out that the replacement of an alcohol like ethanol as a co-solvent with polyacid ester solves the problem of avoiding the presence of alcohol or ethanol while providing a perfect solubilization of perfume concentrates to afford an essentially clear solution for the manufacture of perfume compositions of excellent quality. Thus, there is no basis to make any further prior art rejections.

Since there is no basis to further reject claims 27-31, the current rejection under 35 U.S.C. § 112, first paragraph has been overcome, and no other prior art rejections are outstanding, this application is now in condition for allowance.

Accordingly, the Examiner is respectfully requested to examine this application in light of this response and pass claims 24-57 onto Issuance.

If the Examiner believes that a further interview with Applicants' attorney would be helpful in expediting allowance of this application, the Examiner is invited to telephone the undersigned at the number below.

Serial Number 10/069,103

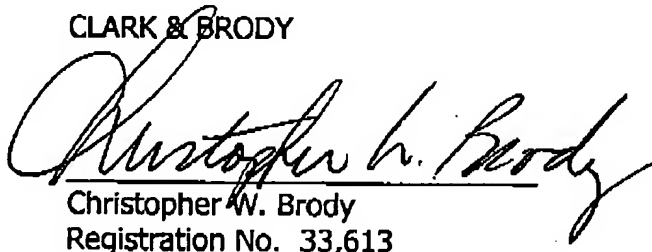
The above constitutes a complete response to all issues raised in the Office Action dated June 1, 2005.

Again, reconsideration and allowance of this application is respectfully requested.

Please charge any shortages or credit any overpayments to Deposit Account No. 50-1088.

Respectfully submitted,

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